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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,011	11/19/2001	Francisco Sureda	14XZ00088	7584

23413 7590 01/16/2007
CANTOR COLBURN, LLP
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BLOOMFIELD, CT 06002

EXAMINER

ALHIJA, SAIF A

ART UNIT	PAPER NUMBER
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2128

MAIL DATE	DELIVERY MODE
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01/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/011,011

Applicant(s)

SUREDA ET AL.

Examiner

Saif A. Alhija

Art Unit

2128

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): 101 and 112 2nd rejections.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2-55, 57, 59 and 60.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

The Claim Objections and 101 rejections of claims 60-63 are withdrawn following Applicants cancellation of the claims.
The 112nd rejection of claims 2-56, and 59-63 are withdrawn following Applicants amendment to the claims.

Applicant argues that the Haridas reference is absent real time steps in determination of the state of a prosthesis as well as utilization of an "actual prosthesis." The Examiner notes that the claims do not recite "real time" or an "actual prosthesis." The Examiner further notes that the claims recite the simulation of the diameter enlargement of a lesion of a blood vessel.

The Haridas reference anticipates the instantaneous and future states of the prosthesis as recited in the claims. This can be seen in Figures 7-8, cited in the previous office action, as well as in the previously cited sections. Haridas recites modeling of the balloon prosthesis in the lumen of the stenosis and then inflating the model. The broadest reasonable interpretation of the claims would allow for the balloon either inflated or deflated to read on the instantaneous state and the resultant of an inflation or deflation of the balloon to be a future state. The inflation/deflation of the balloon would represent actions by an operator.

With respect to Applicants discussion of an "actual prosthesis." As stated above the claims do not recite an "actual prosthesis." The claims recite simulating the deployment of a prosthesis as well as determining a model and an image of the prosthesis. Claim 57 states "means for providing an endovascular prosthesis." When taken in light of the specification and the claim as a whole the prosthesis is a simulated prosthesis of which a model and an image are utilized in the simulation. See Paragraph 8-9, for example, in the Specification of the instant application. Claims 59 and 60 state "determining a model of the prosthesis" which is also interpreted in light of the claim as a whole to be a part of the simulation in which a model and an image are utilized. As such the Haridas reference anticipates the claims as previously cited.

Therefore the prior art rejections are maintained.



KAMINI SHAH
SUPERVISORY PATENT EXAMINER